SENATE BILL REPORT
SB 5565

As of March 3, 2003

Title: An act relating to property tax limitations for port districts.

Brief Description: Modifying property tax limitations for port districts.

Sponsors: Senators Keiser and Poulsen.

Brief History:
Committee Activity: Government Operations & Elections: 2/25/03.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Ronda Larson (786-7429)

Background: Each year, the regular property tax levies of taxing districts are limited to a percentage increase over the districts' highest levy of the three preceding years. Added to this is an amount equal to the amount of revenue that new construction, improvements to property, and changes in state-assessed property would have generated at the preceding year's tax rate. When originally enacted in 1973, the limit was 6 percent.

In the early 1980's, because of the revenue limit, taxing districts were imposing high levies each year (at the full 6 percent) to protect their future levy capacity. To remove the incentive to maintain a high levy and still protect future levy capacity, the Legislature in 1986 allowed a taxing district's levy to be based on the district's maximum allowable levy since 1986 rather than on its actual levy. In other words, a district could increase its levy by 6 percent over the amount that it could have levied if it had been increasing its levy by 6 percent each year, rather than the amount that it actually levied. This additional capacity is known as levy "banking" or "stockpiling." The banked amount would allow a taxing district to increase its actual levy by a percentage greater than 6 percent.

Referendum 47, approved by the voters in November 1997, changed the limit to the lesser of 6 percent or inflation (measured by the implicit price deflator). However, a different limit was allowed in two instances.

- For a taxing district with a population of less than 10,000, the limit was 6 percent.
- By a super-majority vote, a taxing district, other than the state, could provide for the use of a limit of up to 6 percent for use only in the following year upon a finding of substantial need. Substantial need was not defined.

Because of the substantial need exception, taxing districts could increase their levies over inflation and up to 6 percent by a vote of their legislative bodies. Many taxing districts took advantage of this. In addition, while it appeared that Referendum 47 eliminated the ability to bank capacity over inflation, the Department of Revenue's position was that a district could approve a limit that exceeded the rate of inflation based on a finding of substantial need, levy at a rate lower than approved for that year, and bank the difference for use in future years.

Initiative 722, approved in November 2000, lowered the limit to the lesser of 2 percent or inflation and eliminated the ability to bank capacity or to use previously banked capacity by repealing the 1986 law which authorized taxing districts to levy at the maximum amount allowed since 1986. However, the state Supreme Court invalidated I-722 on September 20, 2001, in *Burien v. Kiga,* 144 Wn.2d 819 (2001) on the basis that the initiative contained more than one subject in violation of the state Constitution.

Initiative 747, approved in November 2001, lowered the limit to the lesser of 1 percent or inflation. Although it did not repeal the substantial need exception, a district could only raise its levy up to 1 percent. Assuming inflation is greater than 1 percent, this effectively eliminated the ability to bank additional capacity, but it did not eliminate the ability to use previously banked capacity.

Summary of Bill: For taxes collected in calendar year 2004 and thereafter, levy capacity protection for port districts with an assessed value of over $100 billion is eliminated, and future levies are computed without regard to the 2003 levy.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.